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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,258	06/14/2001	Abir Mullick	554.RESP:103aUS_	6643
24041	7590	04/20/2004	EXAMINER	
SIMPSON & SIMPSON, PLLC			HUYNH, KHOA D	
5555 MAIN STREET			ART UNIT	PAPER NUMBER
WILLIAMSVILLE, NY 14221-5406			3751	

DATE MAILED: 04/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/881,258	MULLICK ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Khoa D. Huynh	3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 05 February 2004.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-28 is/are pending in the application.  
 4a) Of the above claim(s) 5-28 is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-4 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
     Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
     Paper No(s)/Mail Date. \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_.

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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 2 and 3 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for the use of two support brackets (94) and of two support rails (20, 24), does not reasonably provide enablement for the use of one support bracket (as recited in claim 2) and of one support rail (as recited in claim 3). The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the invention commensurate in scope with these claims. In other word, applicant fails to disclose how the movable sink could be moved vertically using one support bracket (claim 2 calls for at least one support bracket) and horizontally using one support rail (claim 3 calls for at least one support rail). Such lack of detailed supports in the instant disclosure is an indication that the scope of the claims is not commensurate with the scope of the enabling disclosure.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-4, as presently understood and given a broadest reasonable interpretations, are rejected under 35 U.S.C. 103(a) as being unpatentable over Maurer et al. (3530513).

Regarding claim 1, the Maurer et al. reference discloses a movable wall mounted dental unit or sink fixture (about 4, 38 & 36 in Fig. 1). The fixture includes a bowl or sink (at 4), means for moving the sink vertically (at 36) with respect to the wall, and means for moving the sink fixture horizontally (about 22 & 23) with respect to the wall. The horizontal moving means is operatively arranged to maintain "an immutable or a constant distance between the sink and the wall" {note: as schematically shown in Figure 1, the sink 4 is at a constant distance from the wall regardless of the sliding movement of the element 38 since the sliding movement of element 38 is independent from the location of the sink}. The Maurer et al. sink fixture also includes a "locking" feature which creates friction and keeps the fixture at the desired position (col. 3, lines 62-75; col. 4, lines 1-12).

Regarding claim 2, the means for moving the sink vertically further includes a support bracket (at 36) and a fixture base (at 38).

Regarding claim 3, the means for moving the sink horizontally further includes a pair of support rails (at 22 & 23) and a fixture base (at 38).

Regarding claim 4, the means for locking the sink at a desired location comprises a securing bolt assembly (col. 4, lines 1-12).

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***Response to Amendment***

5. Applicant's amendment to claim 1, filed on 02/05/2004, is not sufficient to overcome the prior art rejection as stated above.

***Response to Arguments***

6. Applicant's arguments with respect to the pending claims 1-4 have been fully considered but are deemed not persuasive.

Regarding the 112 rejections of claim 2, applicant asserts "it is well within the knowledge of a person of ordinary skill in the art to fabricate a one-piece support bracket". The examiner is respectfully traversed.

First of all, applicant calls for the use of one support bracket, not a one-piece fabricated support bracket. And, last of all, it would not be appropriate for the applicant to say that it is a "common knowledge" of an artisan without the facts (teaching evidences) asserted to be well known. Applicant has also pointed to Figure 9 and taken a position that it is well within the scope of a person of ordinary skill in the art to make a one-piece bracket. However, as previously stated, applicant's reliance on "common knowledge", without any fact or specific documentary evidence, to support an obviousness is clearly an erroneous position.

Regarding the 112 rejections of claim 3, applicant similarly asserts that "it is well within the knowledge of a person of ordinary skill in the art to construct a sink fixture support by a single support rail performing the same function as support rails 20 and 24". The examiner is respectfully traversed.

The examiner courtesy points out that it would not be appropriate for the applicant to say that it is a “common knowledge” of an artisan without the supporting facts (teaching evidences) asserted to be well known. Even though applicant has pointed to Figure 18, showing a single beam 240, and taken a position that it is well within the scope of a person of ordinary skill in the art to make a single support rail to support sink fixture 90 and maintain a constant distant between the sink and the wall; however, Figure 18 shows an embodiment that is non-elected and different from the elected embodiment as depicted in Figure 9. Figure 18 shows a different mounting support for the sink fixture, and to say that such mounting structure is analogous and obvious to the to supports rails 20 and 24 without any explicit basis is clearly erroneous. Furthermore, regarding the Heineken reference, similarly, the examiner respectfully submits that the Heineken reference teaches a different mounting support for a sink fixture and does not teach or suggest that the single support rail *b* can perform the same function as supports rails 20 and 24. Therefore, obviousness cannot be established.

Regarding the 103 rejection, the crux of applicant’s arguments is that Maurer et al. does not teach or disclose “means for moving the sink fixture horizontally with respect to the wall and maintaining an immutable distant between the sink and the wall”. See Remarks section. The examiner respectfully disagrees.

First of all, the word “immutable” is deemed not to change the scope of the claim. Immutable, as indicated in the thesaurus (see attached cited documents), is equivalent to invariable. And invariable defines, as indicated in the dictionary (see attached cited

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documents), as "not changing or capable of change" or "constant". Therefore, the amended claim 1 has not changed in scope.

And last of all, the Maurer et al. reference teaches a movable sink fixture having "means for moving the sink fixture horizontally with respect to the wall." The means for moving the sink fixture horizontally includes a pair of support bars (22 & 23). The sink (4) is located on a fixture base (38) which carries the sink fixture and moves in horizontally (sliding motion) directions on the pair of support bars (22 & 23). As schematically shown in Figure 1, the sink 4 is at a constant or an immutable distance from the wall regardless of the sliding movement of the element 38 since the sliding movement of element 38 is independent from the location of the sink.

Therefore, the Maurer et al. reference does implicitly teach a sink fixture having "the horizontal moving means operatively arranged to maintain an immutable distance between the sink and the wall" as claimed.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (703) 306-5483. The examiner can normally be reached on M-F (7:00-4:30) Second Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Huson can be reached on (703) 308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HK  
04/15/2004



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